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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,043 04/18/2001		Donald J. Mischo	MISCHO-2	2963
20606	7590 02/27/200	3		
KEITH FRANTZ			EXAMINER	
401 WEST STATE STREET SUITE 200			LECHERT JR, STEPHEN J	
ROCKFORD, IL 61101				
			ART UNIT	PAPER NUMBER
•			1732	/
			DATE MAILED: 02/27/2003	4

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Applicati n No.	Applicant(s)			
_	09/838,043	MISCHO, DONALD J.			
Offic Acti n Summary	Examiner	Art Unit			
	Stephen J. Lechert Jr.	1732			
The MAILING DATE of this communication app Peri d for Reply	pears on the cover shet with the o	correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	I36(a). In no event, however, may a reply be tir ly within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	nely filed rs will be considered timely. the mailing date of this communication. ED (35 U.S.C. § 133).			
1)⊠ Responsive to communication(s) filed on 20	September 2001 .				
·	nis action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4)⊠ Claim(s) <u>1-10</u> is/are pending in the application					
4a) Of the above claim(s) is/are withdra	wn from consideration.				
5) Claim(s) 5,8 and 9 is/are allowed.					
6) Claim(s) 1-4,6,7 and 10 is/are rejected.					
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/o	or election requirement				
Application Papers	or election requirement.				
9) The specification is objected to by the Examine	er.				
10)⊠ The drawing(s) filed on 20 September 2001 is/s	are: a)⊠ accepted or b)⊡ objected	to by the Examiner.			
Applicant may not request that any objection to the	ne drawing(s) be held in abeyance. S	see 37 CFR 1.85(a).			
11)☐ The proposed drawing correction filed on	_ is: a)□ approved b)□ disappro	oved by the Examiner.			
If approved, corrected drawings are required in re	•				
12) ☐ The oath or declaration is objected to by the Ex	kaminer.				
Priority under 35 U.S.C. §§ 119 and 120					
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a) ☐ All b) ☐ Some * c) ☐ None of:					
	1. Certified copies of the priority documents have been received.				
	2. Certified copies of the priority documents have been received in Application No				
3. Copies of the certified copies of the priceapplication from the International ButSee the attached detailed Office action for a list	ureau (PCT Rule 17.2(a)).	· ·			
14)⊠ Acknowledgment is made of a claim for domest	ic priority under 35 U.S.C. § 119(e) (to a provisional application).			
a) ☐ The translation of the foreign language pro 15)☐ Acknowledgment is made of a claim for domes					
Attachment(s)	-				
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)			

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DETAILED ACTION

1. The abstract of the disclosure is objected to because it is too long. Applicant is reminded that the abstract should be a concise statement of the claimed invention without using legal phraseology in a single paragraph between 50-150 words.

Correction is required. See MPEP § 608.01(b).

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims (original) 5-11 have been renumbered as Claims 4-10. The dependency of these claims has been changed correspondingly. Applicant is kindly requested to change his number while prosecuting this application, so that confusion on the numbering of claims is precluded.

- 3. Claims 1-3 and 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, step (e), "molding" lacks positive antecedence. In claim 5 applicant recites softening in step (e). However, in claim 6, it is not clear whether raising the temperature is the softening step or an additional softening step which renders the claim indefinite.
- Claims 2-3 and 7 are rejected as being dependent upon a rejected base claim.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

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form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

Gehrke et al. teach using recycled asphalt shingles to produce a fine aggregate-

States.

6. Claims 4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by

Gehrke et al.

asphalt mixture. The recycled shingles are ground in a hammer mill[Note Column 6, lines 64-65], then extruded and cut to produce a shaped part. Gehrke et al. teaches that the asphalt shingles contain a coating of fine minerals, which would meet applicant's mixture of fine aggregate and asphalt mixture. [Note Column 5, lines 43-49]. The extrusion apparatus is found in Column 10, lines 49-53. The cutting apparatus for producing the shaped part after extrusion is found in Column 11, lines 50-67 and Column 12, line 1-4. The apparatus as described by Gehrke et al. specifically provides material inlet to receive shingle material, a grinder and extruder having an inlet to

receive the ground material from the grinder and a die cutter or cutting station and the

extrusion molding station associating with the extruder for receiving the extrudate

7. Claims 1-3 and 5-9 are free of the prior art.

material to produce a shaped product therefrom.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Niwa et al. teach a method of making fibrous plate comprised of asphalt and fibrous raw material.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Lechert Jr. whose telephone number is 703-305-6156. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

Stephen J. Lechert Jr. Primary Examiner

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February 24, 2003